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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/074,622	02/13/2002	Bobby Kong	KNG-10002/29	7352

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EXAMINER

WEBB, SARAH K

ART UNIT	PAPER NUMBER
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3731

DATE MAILED: 05/11/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/074,622

Applicant(s)

KONG, BOBBY

Examiner

Sarah K Webb

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 June 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>6/5/02</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Specification

1. The abstract of the disclosure is objected to because it contains more than 150 words. Correction is required. See MPEP § 608.01(b).

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-3, 5-7,9,10,12,14,15,17,18, 21, and 22 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent No. 5,827,289 to Reiley et al.

Reiley discloses an inflatable blocking element (12,14) in Figures 1 and 2 that is connected to a vacuum source by a tube (16) (column 12, line 6). The inflatable element (12,14) has a recess, or groove, in the outer periphery, and the vacuum tube is associated with this recess. The blocking element (12,14) is in the shape of a disc, as most clearly illustrated in Figure 1. Reiley explains that inflating liquid is provided to the blocking element cavity (12,14) by tubes 18 and 22. Reiley also includes a cannula (26), or catheter, for positioning the blocking element (10) within the body prior to inflation (column 12, lines 34-35). The functional language “adapted for use...” and “such that the suction...” in the independent claims is not given patentable weight.

Claim Rejections - 35 USC § 103

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The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 4, 8, 13, 16, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Reiley in view of US Patent No. 5,331,975 to Bonutti.

Reiley includes all the limitations of claims 4,8,13,16, and 20, except for an inflation pressure monitor. Bonutti discloses a device in Figures 6 that includes an inflatable "blocking" element (64) that is expanded by fluid provided by a lumen (70). Bonutti explains that the inflation pressure is monitored (column 8, lines 26-45) in order to keep the force exerted by the balloon at a safe level for tissue to prevent tissue necrosis. It would have been obvious to one of ordinary skill in the art at the time the invention was made to include a monitor for the inflation pressure in the device of Reiley, as taught by Bonutti, as this helps to prevent damage to the bodily tissue.

The device of Bonutti is similar in structure to the Reiley device, and both devices are used for bone surgery. Bonutti teaches that the inflatable balloon device can also be adapted for use as an occluding device in human vasculature (column 3, lines 56-59). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to adapt the Reiley device for use in human vasculature, as Bonutti teaches that this type of device can be adapted for use in other areas of the human body.

4. Claims 11 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Reiley in view of US Patent No. 6,165,199 to Barbut.

Reiley includes all the limitations of claims 11 and 19, except for a suction level monitor. Barbut discloses an inflatable balloon catheter that is combined with a source of vacuum, which is similar to the device of Reiley. Barbut teaches that a balloon catheter should include a monitor (10) so that the level of suction within a body lumen can be regulated (column 6, lines 40-52). It would have been obvious to one of ordinary skill in the art at the time the invention was made to include a monitor for the vacuum source of Reiley, as Barbut teaches that this provides a means for regulating the pressure within a body lumen.

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. US 5,947,977 (Slepian et al.) discloses a device in Figures 12g and 13b that include access ports to lumens at a recess in a balloon. US 5,954,740 (Ravenscroft et al.) discloses balloons with many grooves on the outer periphery.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sarah K Webb whose telephone number is (703) 605-1176. The examiner can normally be reached on Mon-Fri 8-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Milano can be reached on (703) 308-2496. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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